I. Classes. Our class will meet on Monday and Wednesday from 11:00 to 11:50 in Room 4. Our first class will be on Wednesday January 20, and our last class of the semester will be on Wednesday April 28.

II. Office Hours. I welcome your questions, and I encourage you to raise those questions during our class periods so that your colleagues can benefit from both the questions and my responses. If I'm not in my office in Room 203, my assistant, Ms. Judy Tayloe, will know when I can meet with you. I'd also be happy to talk with you before or after class so that we can schedule a mutually convenient time to talk. My office telephone number is 882-3246, my home telephone number is 256-6825, and my email is DessemRL@missouri.edu.

III. Disability Accommodations. If you need accommodations because of a disability, if you have emergency medical information to share with me, or if you need special arrangements in case the building must be evacuated, please inform me immediately. Please see me privately after class or at my office in Room 203. To request academic accommodations (for example, a note taker), students must also register with the Office of Disability Services (http://disabilityservices.missouri.edu), S5 Memorial Union, 882-4696. It is the campus office responsible for reviewing documentation provided by students requesting academic accommodations and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on "Disability Resources" on the MU homepage.

IV. Intellectual Pluralism. The Law School welcomes intellectual diversity and respects student rights. Students who have questions concerning the quality of instruction in this course may address concerns to either myself or the University’s Director of the Office of Student Rights and Responsibilities (http:osrr.missouri.edu). All students will have the opportunity to submit an anonymous evaluation of both the course and the instructor at the end of the course.

V. Attendance and Participation. I consider class attendance and participation to be extremely important and believe that not only your success, but the success or failure of our class, will depend, in part, upon the preparation and participation of each student in the class. For this reason, I expect any student who will not be present in class, or who will not be prepared to participate, to present me with the motion for extension of time with which you will be separately provided. I also reserve the right to impose upon students who, without a valid excuse, do not attend class or are not prepared to participate all other sanctions permitted by the rules of the School of Law.

VI. Class Preparation. I will expect that each student has carefully read all of the day's assigned text material and has come to class prepared to discuss both that material and any
problems or exercises contained in that material. In reading the text, you should check out citations to rules and statutes highlighted in the textual material. These questions and problems will often provide the basis for class discussion, and you may be asked to provide and explain your answer to the class. Please be sure to bring both your text and the Rules supplement with you to each class.

I highly recommend that each of you "brief" each case that you are assigned to read. The particular format of case briefing that you use is not as significant as your diligence in actually briefing the cases. The purpose of case briefing should be to organize your study and sensitize you to the facts of each case, as well as to the procedural posture and issues presented by each case. Your study of civil procedure also will be helped if you consider the procedural posture of the cases that you study in your other first-year courses. The great bulk of the cases that you study in your first year are appellate decisions, and it should help sharpen your understanding of civil procedure to consider just how each particular case reached the appellate courts in the posture that it did.

VII. Texts. The texts for this course are Stephen Yeazell, *Civil Procedure* (7th ed. 2008) and the 2009 Rules supplement to that text–both of which were assigned in your Civil Procedure I course.

In addition to these major texts, you may find it helpful to consult other civil procedure reference works during the course of the semester. These books are on reserve at the Law Library.

Glannon, *Civil Procedure: Examples and Explanations* (6th ed. 2008). This paperback contains short discussions of much of the material covered in the Yeazell text, as well as hypothetical questions and explanatory answers. Although the majority of the book deals with topics covered in Civil Procedure I, you may find it helpful to consult Glannon on such Civil Procedure II topics as motions to dismiss and for summary judgment, directed verdicts, joinder, and discovery. The final portion of the book consists of the discussion of a hypothetical civil case, which is used to show "the Rules [of Civil Procedure] in Action."

Glannon, *The Glannon Guide to Civil Procedure* (23d ed. 2008). In contrast to Glannon’s *Civil Procedure: Examples and Explanations*, this paperback’s focus on teaching civil procedure is through multiple-choice, rather than essay, questions. As with Glannon’s other volume, the majority of this text covers material discussed in Civil Procedure I, although relevant portions of the text involving Civil Procedure II material may be useful–especially with respect to most effectively responding to multiple-choice questions.

Frienthal, Kane & Miller, *Civil Procedure* (4th ed. 2005). This is one of the better, and most exhaustive, one-volume civil procedure treatises. It achieves a nice balance between the theoretical and practical and contains many case citations.

James, Hazard & Leubsdorf, *Civil Procedure* (5th ed. 2001). This civil procedure treatise tends to focus more on theoretical aspects of civil procedure than on the day-to-day, more routine, problems that the civil practitioner may encounter. For instance, while the book devotes little space to the nuts and bolts of class actions, much attention is given to the historic background of procedure and there is a separate chapter concerning "social and economic aspects of civil litigation."

Shreve & Raven-Hansen, *Understanding Civil Procedure* (4th ed. 2009). This recent civil procedure treatise does a good job of comprehensively covering its subject matter in a single and clearly written volume.

Wright & Kane, *Law of Federal Courts* (6th ed. 2002). The focus of this well established one-volume treatise is on the Federal Rules of Civil Procedure, which makes it particularly useful for the second semester of civil procedure.

Wright & Miller, *Federal Practice and Procedure*. This is perhaps the most extensive civil procedure authority, and I highly recommend it for any in-depth research in the area of either civil procedure or federal courts. It is particularly good concerning the Federal Rules of Civil Procedure. This multi-volume treatise can be searched as a full text or browsed as an electronic book in Westlaw’s FPP database.

Moore, *Moore's Federal Practice*. This is the other major multi-volume civil procedure treatise. While it may not be as helpful or exhaustive as Wright & Miller, in certain areas, such as the finer points of federal jurisdiction, it can be extremely useful. This treatise can be searched as a full text or browsed as an electronic book within Lexis (by going from the main Lexis screen to Legal/Area of Law - By Topic/Litigation/Treatises & Analytical Materials/Matthew Bender(R)/Moore’s Federal Practice - Civil).

In addition to the above treatises, there are several West "Nutshell" books on library reserve that deal with civil procedure. These are much abridged versions of a full length treatise, but some students find them helpful in organizing and studying a course. Kane, *Civil Procedure* (6th ed. 2007) contains a general overview of civil procedure (similar to the much more extensive treatment contained in the same author's *Civil Procedure* hornbook), while Currie, *Federal Jurisdiction* (4th ed. 1999) is addressed to the jurisdictional aspects of civil procedure that are covered in the first semester. Finally, Dessem, *Pretrial Litigation in a Nutshell* (4th ed. 2008) discusses much of the material (particularly concerning the Federal Rules of Civil Procedure) that we will study this semester in Civil Procedure II. Extensive amendments to the Federal Rules of Civil Procedure concerning electronic discovery became effective on December 1, 2006, and texts published before that date do not address these new Rules. These amendments are discussed on pages 464-472 of the Yeazell textbook and pages 419-429 of the 2009
supplement.

While there are several commercial civil procedure outlines which attempt to organize and summarize the basic civil procedure course, I strongly recommend that you attempt to compile your own outlines (either by yourself or in a study group). Read the assigned text for each day and attempt to solve any problems or questions on your own before resorting to any supplemental texts. The final examination will be based exclusively upon the material discussed in class and in your texts and will not presuppose outside research or knowledge of any material beyond the basic texts or our classes.

VIII. Grading. Your grade in this class will be based upon (1) a series of weekly quizzes and (b) a final examination. At the beginning of each Monday class (starting on January 25), a quiz may be given at the first part of the class hour. The single multiple-choice questions that will be asked will be worth two points each. There will be ten questions asked over the course of the semester, but only a maximum of 16 points can be earned based upon these quizzes. These quizzes will cover only material from the previous week's classes, and your combined point total on these quizzes will count for approximately 15% of your total grade in this course (with the remainder of your grade being determined by the final examination).

The final examination will contain both essay and multiple-choice questions. These questions may relate to any of the material covered in the course this semester.

In computing your final grade, I will add the total number of points that each student has earned on his or her quizzes and final examination and then assign a grade based upon the Law School's grading scale.

The School of Law's Honor Code applies to all work done in this course. If you have any questions about this, please see me.

IX. Suggestions. I am interested in constructive criticism concerning this course, and I hope that you will share your thoughts with me as the semester progresses. If you have not understood a particular point, chances are that other students could profit from further explanation.
The following is a tentative course syllabus for Civil Procedure II. While there undoubtedly will be changes in the specific day-to-day classes, I will attempt to stay as close to this syllabus as circumstances permit. All page references are to Stephen Yeazell, *Civil Procedure* (7th ed. 2008) and presuppose study and discussion of the corresponding material in the 2009 Yeazell supplement.
Week Coverage

Jan 18  Class Actions. Pages 798-821. At our first class meeting on January 20, we will begin a discussion of class actions. Be sure to read not only this textual material, but the text of Rule 23, carefully during your class preparation. In addition to our first regular class on the 20th, we will continue our discussion of class actions (and the constitutional limitations on class actions) at an anticipatory make-up class from 1:00 to 1:50 in Room 4 on Thursday, January 21.

Jan. 25  Class Actions. Pages 821-846. The week will begin with our first quiz of the semester on January 25 (based on material from the prior week). This week we will continue our discussion of class actions, considering the constitutional limitations on class actions, the jurisdictional issues posed by class actions, and class action settlements.

Feb. 1  Class Actions; Discovery. Pages 415-426. During our February 1 class, we will hear from an attorney who handles class action litigation about current issues within, and the realities of, class action practice. On February 3, we will begin our consideration of discovery and, in particular, relevance and the duty to preserve evidence.

Feb. 8  Discovery. Pages 426-438. We will not meet on Monday, February 8 (having already made up that class on Thursday, January 21). There will be a required class for all first-year students on summary judgment at 1:00 on February 9 in Room 7. Please read pages 526-540 before this combined class. On February 10, our class will continue our discussion of discovery, considering the different discovery methods and working through the stages of pretrial discovery.

Feb. 15  Discovery. Pages 439-459. This week’s classes will focus on privilege and work-product protection, expert witnesses, and privacy within the discovery process.
Feb. 22  Discovery. Pages 459-472; supplement pages 419-429. We will conclude our consideration of discovery this week, considering physical and mental examinations, discovery abuse and the judicial remedies and sanctions for such abuse, and electronic discovery. On February 24 at 1:00 in Room 7 there will be a class concerning appeals for all civil procedure students; Please read pages 625-643 for this combined class. You also are to complete with a partner the computer discovery game that will be handed out in class and turn in your results sheet by our class of Wednesday, March 3.

March 1  Resolution without Trial. Pages 473-481; 540-549. This week we will consider portions of Chapter VIII (Resolution without Trial), including a consideration of defaults and default judgments, voluntary and involuntary dismissals and judicial management of litigation. There will be a class for all Civil Procedure II students concerning exceptions to the final judgment rule taught by Professor Esbeck at noon in Room 7 on March 5, before which class you should read pages 644-655 in the text; Federal Rules of Civil Procedure 23(f) & 65(a) and (b); Federal Rules of Appellate Procedure 5 and 21; and 28 U.S.C. §§ 1292(a) & (b) and 1651, and a handout that Professor Esbeck will send you electronically. Students are to turn in their computer discovery exercise sheets by our class on Wednesday, March 3.

March 8  The Trier and the Trial. Pages 551-560; 579-582; 590-597. This week we will consider the civil trial and the judge or jury which tries the civil action. We will begin with a consideration of the division of responsibility between the judge and jury within a civil trial and the seventh amendment right to jury trial. We then will discuss the method of selection of civil jurors and how potential jurors can be challenged.

March 15  The Trier and the Trial. Pages 582-590; Supplement page 433; Text pages 598-609. This week we will consider the circumstances under which judges can be challenged from sitting in a particular case and the means by which judges can constitutionally control juries.

March 22  The Trier and the Trial. Pages 609-623. We will conclude Chapter 9's treatment of civil trials with a consideration of new trials–including conditional new trials, remittitur and additur, and the reexamination clause of the seventh amendment.

March 29  Have a good Spring Break!

April 5  Respect for Judgments. Pages 667-688. We will begin our discussion of respect for judgments with an analysis of claim preclusion and its requirement that the two claims in question are the same and are between the same parties.
April 12  Respect for Judgments. Supplement pages 435-443; Text pages 688-702. We will continue and conclude our discussion of claim preclusion and begin our discussion of issue preclusion.

April 19  Respect for Judgments. Pages 702-717. We will continue and conclude our discussion of issue preclusion, considering non-mutual collateral estoppel and the impact of collateral estoppel in litigation involving more than two civil actions.

April 26  Respect for Judgments. Pages 722-729. We will conclude our semester with a consideration of the impact of full faith and credit upon the doctrine of respect for judgments.